

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

HEB GROCERY COMPANY, LP,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 17-cv-02810
	§	
TODD MEAGHER, IRENE ALEXIS	§	<b>JURY TRIAL DEMANDED</b>
MEAGHER, and MYSTORE, INC.,	§	
	§	
Defendants.	§	

**RESPONSE TO ORDER**

Pursuant to the Management Order entered December 5, 2019, and this Court's instructions in the hearing held December 4, 2019, Todd Meagher submits the following documents providing the information ordered by the Court concerning GHER Solutions, LLC for the last five years.

1. Sworn Compliance Statement on Information Sought Concerning GHER Solutions, LLC Based Upon Management Order No. 264, with accompanying Exhibits: A-T.
2. Declaration of Prosenjit Debnath, platform developer for GHER Solutions, LLC since 2011 through the present day.
3. Financial Statement covering the years 2011-2019. Mr. Meagher was not able to confer and review the details of it financial report with a bookkeeper or accountant and generated the report from the raw data of its online book keeping service QuickBooks. If the Court feels the report does not fulfill its request, Mr.

Meagher asks the Court specify exactly financial records it requires to fulfill its  
order and he will do his best be provide them.

Respectfully submitted,

THOMPSON COE COUSINS & IRONS, L.L.P.

By: /s/Gary L. Pate

Gary L. Pate

Federal ID. 29713

One Riveway, Suite 1400

Houston, Texas 77056

713-358-6779 (Telephone)

713-403-8299 (Facsimile)

gpate@thompsoncoe.com

ATTORNEY IN CHARGE FOR DEFENDANT

TODD MEAGHER

**CERTIFICATE OF SERVICE**

I hereby certify that on December 13, 2019, I served the foregoing instrument including  
notice thereof, upon the persons listed below in the manner indicated.

***Via Electronic Service***

Louis T. Pirkey

Tyson D. Smith

PIRKEY BARBER PLLC

600 Congress Ave., Suite. 2120

Austin, TX 78701

lpirkey@pirkeybarber.com

lsmith@pirkeybarber.com

***Via Electronic Service***

Jason M. Powers

Stephanie L. Noble

VINSON & ELKINS, L.L.P.

1001 Fannin St., Suite 2500

Houston, TX 77002

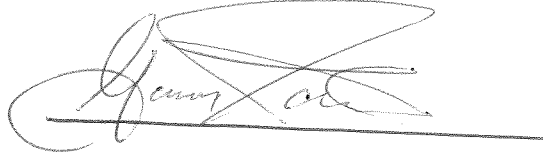
jpowers@velaw.com

snoble@velaw.com

***Via Electronic Service***

Karen B. Tripp

Attorney at Law  
4265 San Felipe, Suite 1100  
Houston, TX 77027  
[ktripp@tripplaw.com](mailto:ktripp@tripplaw.com)

A handwritten signature in black ink, appearing to read "Gary A. Tripp", written over a horizontal line.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

HEB GROCERY COMPANY, LP,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 17-cv-02810
	§	
TODD MEAGHER, IRENE ALEXIS	§	<b>JURY TRIAL DEMANDED</b>
MEAGHER, and MYSTORE, INC.,	§	
	§	
Defendants.	§	

**SWORN COMPLIANCE STATEMENT  
ON INFORMATION SOUGHT CONCERNING GHER SOLUTIONS, LLC  
BASED UPON MANAGEMENT ORDER NO. 264**

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

**1. When was GHER Solutions, LLC formed and incorporated?**

January 3, 2011 – Todd Meagher filed the Certificate of Formation for GHER Solutions, LLC listing himself as the only member of the company.

May 25, 2011 – GHER Solutions, LLC's Certificate of Formation was amended removing Todd Meagher as a member of the company.

As of May 25, 2011, Todd Meagher was no longer a member of GHER Solutions, LLC.

See State of Delaware Certificate of Formation dated January 3, 2011, Certificate of Amendment dated in May 25, 2011 and GHER Solutions, LLC (**Exhibit A**).

**2. When did GHER Solutions, LLC. first register as a Foreign Limited Liability Company in Texas and who did the company list as its governing persons and registered agent?**

GHER Solutions, LLC. was first registered as a foreign limited liability company in Texas on August 18, 2014 Todd Meagher was not listed as the registered agent of as a governing person.

On May 21, 2019, after becoming a member of GHER Solutions, LLC a Statement of Change of Registered Agent was filed in Texas listing Todd Meagher as the new registered agent for the GHER Solutions, LLC.

See State of Texas Certificate Application for Registration of a Foreign Limited Liability Company dated August 18, 2014 and Statement of Change of Registered Office/Agent dated May 21, 2019 (**Exhibit B**).

**3. Does GHER Solutions, LLC have an Employer ID Number and how is the company taxed?**

Yes. As the company's managing member at the time, Nickolas Meagher filed the company's S corporation election with the IRS as its election was accepted on June 9, 2014.

See IRS Notice dated June 9, 2014 stating GHER Solutions, LLC will be treated as an S corporation starting January 1, 2013. (**Exhibit C**).

As an S Corp all company owners are issued K1s to be filed with their personal tax returns, to date Todd Meagher has never been issued K1s from the company or filed a profit or loss from the company on his personal tax returns.

**4. What does the company GHER Solutions, LLC do?**

GHER Solutions, LLC designs and develops software for third party companies and also develops its own Internet businesses providing interactive computer services via its website portals. Once one of its businesses begins to show promise, the company either raises money to scale the business or it sells the business to a company with the resources to scale the business.

**5. What software has GHER developed for third party companies in the past five (5) years?**

Hearplay: Online Music Discovery Game client was Music Social, LLC  
(**Screenshot Exhibit D**).

CheckinMD: Medical Clinic Mobile Checkin Software client was CheckinMD, LLC  
(**Screenshot Exhibit E**)

FinalResting: Online Memorials Software client was FinalResting, LLC  
(**Screenshot Exhibit F**).

OpenCabana: Pool and Beach seating reservation and inventory management software client was Alameda Properties, LLC  
(**Screenshot Exhibit G**).

Toweltrack: towel tracking and management software client was Alameda Properties, LLC.  
(**Screenshot Exhibit H**).

Zurra- In room and mobile guest services software for hotels client was Zurra, Inc.  
(Screenshot Exhibit I).

**6. What Internet businesses has GHER Solutions, LLC developed in past five (5) years?**

Credit411 – an online credit information and referral service. (Screenshot Exhibit J).  
MyStore – an online marketing platform for small businesses. (Screenshot Exhibit K).  
Credentials – an online “locker” for credentialed achievements. (Screenshot Exhibit L).  
Duette – hair care products. (Screenshot Exhibit M).  
OpenCircle – an unfiltered social network and alternative to Facebook. (Screenshot Exhibit N).

**7. What are the assets of GHER Solutions, LLC for the past 5 years?**

The software that runs on the website [www.mystore.network](http://www.mystore.network) and its associated Apple and Android mobile applications.

The software that runs on the website [www.checkinmd.com](http://www.checkinmd.com) and its associated Apple and Android mobile applications.

The software that runs on the website [www.opencircle.com](http://www.opencircle.com) and its associated Apple and Android mobile applications.

The software that runs on the website [www.credit411.com](http://www.credit411.com) and its associated Apple and Android mobile applications.

The software that runs on the website [www.credentials.com](http://www.credentials.com) and its associated Apple and Android mobile applications.

The following domain names:

[mystore.com](http://mystore.com) (sold in 2018)

[mitienda.com](http://mitienda.com) (sold in 2018)

[mystore.network](http://mystore.network)

[yourstore.com](http://yourstore.com)

[checkinmd.com](http://checkinmd.com)

[ID911.com](http://ID911.com)

[Credit411.com](http://Credit411.com)

[Credit911.com](http://Credit911.com)

[Creditmonitor.com](http://Creditmonitor.com)

[Credentials.com](http://Credentials.com)

[FinalResting.com](http://FinalResting.com)

[OpenCircle.com](http://OpenCircle.com)

[CheckinMD.com](http://CheckinMD.com)

[Duette.com](http://Duette.com)

[Gher.com](http://Gher.com)

Najc.com  
HairOutlaws.com  
Meacts.com  
Medgrow.com

GHER Solutions, LLC owns the rights to all the data collected on its websites pursuant to each websites privacy policy.

**8. From whom were the assets purchased and when they were purchased as identified above?**

The software assets were developed and not purchased. The data assets were collected not purchased. The cost of each domain name varies most of which were not purchased in the last five (5) years.

**9. Who are the investors of GHER Solutions, LLC in the past five (5) years?**

In the past five years while GHER Solutions, LLC has received investment in some of its individual businesses, the company itself has

**10. Who has loaned money to GHER Solutions, LLC in the past five (5) years (creditors)?**

Brad Gillis \$100,000.00 (LOANED RECEIVED in 2014. LOAN PAID OFF in 2018)  
Currently, GHER Solutions, LLC. has no creditors.

**11. How does GHER Solutions, LLC make money?**

Software development.  
The sale of its developed Internet businesses.

**12. In what manner has GHER Solutions used the mark MyStore in the past five (5) years?**

As the brand of its MyStore website services and MyStore mobile applications.

**13. Does MyStore, Inc. have any ownership interest in GHER Solutions, LLC.?**

No.

**14. Can you provide the Court with GHER Solutions, LLC's balance sheets for the past five (5) years?**

A current copy of GHER Solutions, LLC's balance sheets for the years 2014-2019 are being provided in Chambers under seal.

**15. Where is GHER Solutions, LLC office located?**

550 Reserve Street Suite 150  
Southlake, Texas 76248

GHER Solutions, LLC. office is located at Spaces in Southlake  
<https://www.spacesworks.com/southlake/granite-place/>

Previously the company's office was located at Regus in Southlake Texas  
<https://www.regus.com/offices/united-states/texas/southlake/office-space/texas-southlake-cedar-ridge>

The company also had an office in San Francisco at <https://www.regus.com/offices/united-states/california/san-francisco/office-space/california-san-francisco-downtown-stevenson-street>

**16. Prior to the sale of the domain names mystore.com and mitienda.com how long were the domain names registered to GHER Solutions, LLC.?**

Approximately since June 2013. (See Exhibit O)

**17. Has Todd Meagher ever sold or advertised goods or services on GHER Solutions' LLC's websites mystore.com or mitienda.com in the last five (5) years?**

No.

**18. Has Alexis Meagher ever sold or advertised goods or services on GHER Solutions' LLC's websites mystore.com or mitienda.com in the last five (5) years.**

No.

**19. Has MyStore, Inc ever sold or advertised goods or services on GHER Solutions' LLC's websites mystore.com or mitienda.com in the last five (5) years.**

No.

**20. Has HEB ever contacted GHER Solutions, LLC regarding the concern of trademark infringement or requested a takedown of any content on any of its websites?**

No.

**21. Prior to filing its lawsuit had HEB ever contacted you personally or GHER Solutions, LLC. and requested a takedown of any content on the websites mystore.com or mitienda.com?**

No.



**22. When was the first date you notified HEB that the mystore.com and mitienda.com domain names were owned by GHER Solutions, LLC.**

The public records showing GHER Solutions, LLC. as the owner of these domains has been publicly available online since at least 2013 and I also provided those records early in this case through discovery.

**23. Is it true that GHER Solutions, LLC has always owned the software that is used to provide the interactive computer services offered on the mystore.com, mitienda.com and mystore.network website portals?**

Yes.

**24. Who paid for the development of the software and mobile applications that offered the interactive computer services on the website portals mystore.com, mitienda.com and mystore.network?**

GHER Solutions, LLC.

**25. Did GHER Solutions, LLC have a trademark for its use of the mark MyStore as the name and brand of its interactive computer services offered on its mystore.com, mitienda.com or mystore.network website portals and mobile applications?**

No. The trademark for the mark MyStore was registered with the United States Patent and Trademark Office on February 17, 2009 by Todd Meagher before GHER Solutions, LLC was incorporated. (Exhibit P)

**26. Why didn't Todd Meagher assign the MyStore trademark to GHER Solutions, LLC. after the corporation was formed?**

That was the intention. The plan was when the MyStore trademark registration came up for renewal on March 17, 2015 Todd Meagher would renew and then assign the mark to GHER Solutions, LLC. Unfortunately, Todd Meagher missed the renewal date and on September 18, 2015 the trademark registration for the mark MyStore was cancelled.

Just three days later on September 21, 2015, Todd Meagher applied to re-register the MyStore trademark United States Patent and Trademark Office with the intention of assigning the mark to GHER Solutions, LLC once the registration was completed. (Exhibit Q)

However, on March 16, 2016 HEB opposed the re-registration of the MyStore trademark claiming that Todd Meagher's continued use of the MyStore trademark now created the likelihood of confusion with its Mi Tienda trademark even though the two trademarks were registered and co-existed for six (6) years without dispute.

In an effort to make clear there was no confusion between the MyStore trademarked goods and services and HEB's Mi Tienda trademarked goods and services, on September 13, 2017 Todd Meagher withdrew his application to re-register the MyStore trademark with the intention of modifying the description of services to emphasize the distinction the distinction between the MyStore and Mi Tienda services. **(Exhibit R)**

On September 19, 2017, just three days after withdrawing his trademark application and before he had a chance to re-file his application using a modified description of MyStore's goods and services to make clear the distinction between the MyStore and Mi Tienda services, HEB sued Todd Meagher, Irene Alexis Meagher personally and MyStore, Inc. for trademark infringement for the use of the MyStore mark by GHER Solutions, LLC on GHER Solutions, LLC's mystore.com and mitienda.com website portals.

Therefore, until Todd Meagher is able to re-register the MyStore trademark it cannot be assigned to GHER Solutions.

Ironically, the United States Patent and Trademark Office has already approved Todd Meagher's re-registration of the MyStore trademark on January 30, 2019 and if not for this lawsuit, Todd Meagher would be able to assign the MyStore trademark to GHER Solutions, LLC. **(Exhibit S)**

**27. Why do you think HEB sued Todd Meagher personally for activity on GHER Solutions mystore.com and mitienda.com website portals and not GHER Solutions, LLC.?**

Because Todd Meagher owned the trademark they wanted to prevent for being re-registered.

**28. For the years prior to you becoming a member of GHER Solutions, LLC were you an employee of the company?**

I was a contracted project manager overseeing the company's software developers. I also designed and tested the software and was paid by the company for my services.

**29. Did you assist in creating or filtering any of the store content put on the websites by others?**

No. I never directly communicated with any MyStore users or assisted users with, or filtered the content added by them to the website.

However, I did design the software which rejects anyone from naming their store MyStore or MiTienda so that visitors would not incorrectly assume that the store was endorsed by MyStore or GHER Solutions, LLC and to protect my MyStore trademark. **(See Declaration of Prosenjit Debnath Exhibit T)**

**30. It has been implied that you are personally responsible for deleting store data from GHER Solutions, LLC website portals is that true?**

No. I did not personally delete any data. I was not the database administrator, nor did not know how to access and delete the database that was the job of Prosenjit Debnath. However, I did instruct Mr. Debnath to delete all user data from the Digital Ocean computer server before I closed our hosting account with them. **(See Declaration of Prosenjit Debnath Exhibit T)**

I was asked by the Court in a pre-trial conference on February 15, 2019 how many people advertised on the MyStore website my answer was tens of thousands. I was then asked by the Court how many people placed a classified ad on the MyStore website 9 years earlier in 2010. At the time I had no idea how many people placed ads on the MyStore in 2010.

I have previously asked the court to allow me to share the data from the GHER Solutions, LLC backups in-camera because I did not have the authority to release it. Now, that I am the managing member of GHER Solutions, LLC., I can and am attaching the 14,000 MyStore user profiles to the Court without an in-camera conference. **(Exhibit V) and (Exhibit W)**

**31. When did you become a member GHER Solutions, LLC.?**

In 2019, and after the HEB lawsuit was filed. See GHER Solutiuons, LLC company history timeline. **(Exhibit U)**

**I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.**



Todd Meagher  
On behalf of GHER Solutions, LLC.